vss

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.3811 OF 2003
IN
CHAMBER SUMMONS IN NO.1490 OF 2001
IN
SUIT NO.1159 OF 1988

M/s.D.P. Brothers ... Plaintiffs

V/s.

Puri Construction Ltd. & Ors. ... Defendants

And

Shri Purshottamdas Gurnani ... Respondent

Mr.M.Nackos i/b N.G. Bhatt for Plaintiffs
Mr.A. Khatri i/b P.Mehta Mithi & Co. for Defendant No.2

CORAM: **SMT.NISHITA MHATRE, J.**

DATED: **MARCH 10, 2006**

P.C.:

. The Notice of Motion has been taken out for restoration of the Chamber Summons No.1490 of 2001 which was dismissed for default. An affidavit has been filed by two practising advocates who have stated that the advocate on record, the advocate on record being a diabetic was not available to attend the work and therefore, had instructed the affiants to attend the work. It appears from the affidavit that the affiants had missed the matter on board and, therefore, the matter was dismissed for default.

2. Having regard to the reasons set out in the affidavit in support of the Motion, I am of the view that the delay in filing the Motion must be condoned. The Chamber Summons restored to file, however, subject to payment of costs.

3. The Notice of Motion is accordingly made absolute in terms of prayer clauses (a) and (b) conditional upon the plaintiffs depositing with the Maharashtra State Legal Services Authority a sum of Rs.2000/- within a week from today.